IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6925 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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STATE PF GUJARAT & 1 - Petitioner(s)
Versus
PATEL JAYANTIBHAI KANKABHAI - Respondent(s)

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Appearance :
MS HANSABEN PUNANI, AGP, for Petitioner No(s).: 1,2.

MR PRABHAKAR UPADYAY for Respondent No(s).: 1.

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 16/08/2005

ORAL JUDGMENT

.1. This petition is directed against the award passed by the Labour Court, Himmatnagar, in Reference (LCH) No.650/96 dated 11.12.1998 whereby the Labour Court directed the petitioner to reinstate the respondent on his original post along with back wages.

2. The short facts of the case are that the respondent was working

with the petitioner on daily wage basis. His services were terminated without following due procedure. The respondent therefore raised a dispute which was referred to the Labour Court and registered as Reference (LCH) no.650 of 1996. The Labour Court after hearing the parties passed the aforesaid award.

3. While admitting this matter no interim relief was granted. In spite of the said position the respondent was not reinstated. Thereafter, subsequent to the order passed by this Court on 14th July 2005 and subsequently the respondent has been reinstated as skilled labourer.

4. Since no stay had been granted and since the workman has already been reinstated, it would not be appropriate to disturb the said position. Apart from that learned counsel for the petitioner is unable to point anything to upset the finding of the Labour Court in respect of reinstatement.

5. However, I find that the Labour Court has not given any cogent and convincing reasons for awarding back wages. The law on the subject is already settled. In the case of Ram Ashrey Singh Vs. Ram Bux Singh, reported in (2003) II LLJ 176 wherein it is held that the

workman had no automatic entitlement to back wages since it is discretionary and has to be dealt with in accordance with facts and circumstances of each case. In the case of General Manager, Haryana Roadways Vs. Rudhan Singh, reported in JT 2005 (6) SC 137, it is held that order for payment of back wages should not be passed in mechanical manner but a host of factors are to be taken into consideration before passing any such order. In that view of the matter, the Labour Court has committed an error in awarding back wages.

6. In the premises aforesaid, the the impugned order qua back wages is quashed and set aside. The rest of the award is confirmed. The respondent workman shall be entitled to reinstatement with continuity of service and all other consequential benefits from the date of publication of award. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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